

The opinion in support of the decision being entered today
was **not** written for publication in
and is **not** binding precedent of the Board.

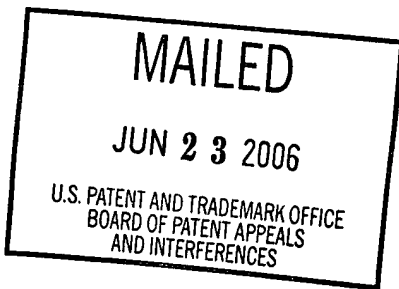
UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte LI-LUNG CHAO and THOMAS R. JAMES

Appeal No. 2006-1229
Application No. 09/800,690

ON BRIEF



Before BAHR, LEVY, and FETTING, **Administrative Patent Judges.**

FETTING, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. §134 from the examiner's final rejection of claims 1 and 3 to 21, which are all of the claims pending in this application.

We AFFIRM.

BACKGROUND

The appellants' invention relates to a system and method of backordering product. An understanding of the invention can be derived from a reading of exemplary claim 1, which is reproduced below.

1. A system for back ordering out of stock products, the system comprising:

a host system;

a user system in communication with said host system via a network;
and

a database coupled to said host system, said database storing data relating to back ordering out of stock products;

wherein said host system includes instructions for executing a method, comprising:

receiving an order for a product from said user system;

determining whether inventory for said product satisfies said order;

notifying said user system if said inventory for said product does not satisfy said order;

receiving a back order request from said user system to back order said product if said inventory for said product does not satisfy said order;

receiving a time period request from said user system for setting a

time that said back order request is to remain in effect;

determining an amount of said product for meeting said back order request ;

acquiring said amount and updating said inventory;

notifying said user system that said back order request has been satisfied, and

in response to said notifying said user that said back order request has been satisfied, receiving a delivery request from said user system to deliver said product.

PRIOR ART

The prior art references of record relied upon by the examiner in rejecting the appealed claims are:

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|------------------------|--------------|--|
| Alnwick | 2002/0007318 | Jan. 17, 2002 (filed Dec. 11, 2000) |
| Ahluwalia | 6,728,685 | Apr. 27, 2004 (filed Apr. 5, 2000) |
| Furphy et al. (Furphy) | 2002/0107794 | Aug. 8, 2002 (filed Feb. 5, 2001) |

Timothy Pritchard, *Ford and Toyota Test the Sale of Cars On-Line in Canada*, New York Times, 6/29/2000 (Pritchard).

REJECTIONS

Claims 1 and 3 to 21 stand rejected under 35 U.S.C. § 103 as being unpatentable as obvious over Alnwick in view of Ahluwalia, Furphy and Pritchard.

Rather than reiterate the conflicting viewpoints advanced by the examiner and appellants regarding the above-noted rejection, we make reference to the examiner's answer (mailed 7/14/2005) for the reasoning in support of the rejection, and to appellants' brief (filed 5/10/2005) for the arguments thereagainst.

OPINION

In reaching our decision in this appeal, we have given careful consideration to appellants' specification and claims, to the applied prior art reference, and to the respective positions articulated by appellants and the examiner. As a consequence of our review, we make the determinations that follow.

Claims 1 and 3 to 21 rejected under 35 U.S.C. § 103 as being unpatentable as obvious over Alnwick in view of Ahluwalia, Furphy and Pritchard.

Appellants confine their arguments to the elements of claim 1 and our analysis below addresses Appellants' arguments accordingly.

The Examiner applies four prior art references, and to make the combination more understandable, we note that the examiner relies on Alnwick and Furphy as sources of teachings for generic order systems that provide details for back ordering, and on Ahluwalia and Pritchard for specific application of back ordering to automobile orders by way of example. Thus, the Examiner's argument is essentially that the claimed subject matter reads on generic back ordering as would be applied to ordering of automobiles, as evidenced by the applied art. We note, and the Examiner indicates, that the general order and back order features of such ordering systems are shown by Alnwick and the inventory updating feature on incoming inventory is shown by Ahluwalia, the aspects related to a time period for back orders are shown by Furphy, and of notifying and acknowledging for delivery shown by Pritchard.

Appellants argue that Alnwick is devoid of teaching a host system executing back order functions between users and supplier, but rather provides websites for one of more wholesalers. [See Brief at p. 12].

We note that Alnwick explicitly states

The default quantity committed to an order is one, but may be increased at any time during order creation. If the committed quantity is increased, it is necessary to "update" the order. If the customer is satisfied with the contents of his order, he will continue to either a back order screen or to a billing/shipping screen. The customer may order a quantity of an order greater than the available quantity **creating a "back order"** of the item. The back order screen will display all line items that have been back ordered along with the quantity of the line item that has been back ordered. The customer has an opportunity to review the company's back order terms at this screen. Any back order item will be designated as a back ordered item on all e-mails, orders and invoices. [See para 76].

The Appellants next argue that the inventory of Ahluwalia is unlike the inventory in the claims, as Ahluwalia discloses an inventory database which contains the updated inventory data at all dealerships and products in process unlike the claimed inventory update and status notification, which the Appellants argue are directed to back order information.

To respond to this argument, we must ascertain the scope of the term “inventory” as claimed. We note that the only actual claim elements in claim 1 referring to inventory are:

- determining whether **inventory** for said product satisfies said order;
- notifying said user system if said **inventory** for said product does not satisfy said order;
- receiving a back order request from said user system to back order said product if said **inventory** for said product does not satisfy said order;
- acquiring said amount and updating said **inventory**;

We note that the first instance of “inventory” thus claimed relates to all inventory that is considered for satisfying the demand for said product. The remaining instances of the term “inventory” are consistent with this construction and provide no further narrowing of its scope. This is the type of inventory that is updated by Ahluwalia [See col. 11 lines 15-18]. We further note that Ahluwalia provides an inventory view related just to the back ordered items that are custom ordered.

[T]he customer is able to make a purchase on a product or vehicle that he/she desires and track the status of the vehicle when it is custom ordered and manufactured. [See col. 31 lines 59-65].

The Appellants next argue that the time limit referenced by Furphy is directed to resolving discrepancies noted in electronic documents shared between two parties and the time period is not placed on a back order. [See Brief at p. 13].

We note that Furphy states

If the customer has allowed multiple invoices per purchase order, then the unmatched line **items may be placed on hold for a period of time** pending separate invoices. **This period of time may also be selected by the customer, and may be of any duration.** Preferably, this period of time does not extend past 30 days, beyond which the customer may be contacted through the workflow resolution 60. There may also be a **provision for items that have been placed on back-order status, such that a separate period of time is specified before the issue is provided** to the workflow resolution 60. [See para. 65]

The electronic documents Appellants refer to are simply the specific implementation Furphy uses to track purchase history, including back orders. The above section of Furphy states that, for items physically received, for which no invoice has been received, some time period will be allowed for the invoice to arrive; but if the item was on back order, a separate time period, which is the time the item is on back order (because there is no other reference point for measuring such a time period time) will be allowed. The language of Furphy, as it pertains to back orders, provides a separate period of time as specified by customers for items placed on back order before some resolution must arise. This clearly meets the claim limitation of a time period the back order is to remain in effect because after such a time period, some resolution is mandated, i.e., it does not remain as before the time period ended.

Finally, the Appellants argue that Pritchard fails to show communication between a host system and user system, because Pritchard requires a notification involving the manufacturer, dealer and customer. [See Brief at p. 13]. The claim elements in claim 1 recite

- wherein said host system includes instructions for executing a method, comprising: ...
- notifying said user system that said back order request has been satisfied

The breadth of this claim scope is certainly sufficient to encompass a notification from manufacturer to customer via dealer. Also, Ahluwalia states that the consumer may select a means of automated reporting of the vehicle delivery status. [See col. 10 lines 28-29].

In light of the above, the Appellants' arguments fail to persuade us of any error on the part of the examiner. Accordingly, we **sustain** the examiner's rejection of claims 1 and 3 to 21 as rejected under 35 U.S.C. § 103 as being unpatentable as obvious over Alnwick in view of Ahluwalia, Furphy and Pritchard.

CONCLUSION

To summarize the rejection of claims 1 and 3-21 under 35 U.S.C. § 103 as being unpatentable as obvious over Alnwick in view of Ahluwalia, Furphy and Pritchard, is **sustained**.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED


JENNIFER D. BAHR

Administrative Patent Judge


STUART S. LEVY

Administrative Patent Judge



ANTON W. FETTING

Administrative Patent Judge

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